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**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ALASKA**

NORTHERN DYNASTY MINERALS LTD.  
and PEBBLE LIMITED PARTNERSHIP,

Plaintiffs,

v.

UNITED STATES ENVIRONMENTAL  
PROTECTION AGENCY,

Defendant.

Case No. 3:24-cv-00059-SLG

**UNOPPOSED MOTION FOR EXTENSION OF  
TIME FOR FILING EPA'S ADMINISTRATIVE RECORD**

Defendant United States Environmental Protection (“EPA”) moves, unopposed, for a two-week extension of time to file and serve its administrative record in this case. In support of this Motion, EPA states as follows.

1. This case involves Plaintiffs’ challenge under the Administrative Procedure Act (“APA”) to the January 2023 Final Determination of the U.S. Environmental Protection Agency Pursuant to Section 404(c) of the Clean Water Act [for the] Pebble Deposit Area, Southwest Alaska (“Final Determination”). In accordance with the APA, Plaintiffs’ challenge to the Final Determination is subject to judicial review on the administrative record.

2. Plaintiffs filed their Complaint in this case on March 15, 2024, *see* ECF 1, and EPA submitted its Answer on May 20, 2024. ECF 43. Under Local Rule 16.3(b)(1), EPA’s administrative record currently is due on July 19, 2024.

3. To date, 23 parties have sought to intervene in this case. *See* ECF 21, 23, 32. Those intervention requests remain pending.

4. Plaintiffs have filed a Motion for Leave to Amend and Supplement (“Motion to Supplement”), seeking, *inter alia*, to add a new claim challenging the United States Army Corps of Engineers’ denial without prejudice of Pebble Limited Partnership’s Clean Water Act Section 404 permit application. ECF 55. Adding that claim would require the Corps of Engineers to submit a separate administrative record. EPA opposed that motion, ECF 66, and the motion remains pending.

5. Two other cases challenging EPA’s Final Determination have been filed in this Court: *State of Alaska v. United States Environmental Protection Agency*, Case No. 3:24-cv-00084-SLG (filed on April 11, 2024); and *Iliamna Natives Ltd., et al. v. Environmental Protection*

*Agency, et al.*, Case No. 3:24-cv-00132-SLG (filed on June 24, 2024). Because all three cases challenge the Final Determination, judicial review would rely on the same EPA administrative record.

6. In *State of Alaska v. United States Environmental Protection Agency*, Case No. 3:24-cv-00084-SLG, EPA filed its Answer on June 24, 2024. EPA's administrative record in that case currently is due on August 23, 2024. *See* Local Rule 16.3(b)(1). EPA's response to the complaint in *Iliamna Natives Ltd., et al. v. Environmental Protection Agency, et al.*, Case No. 3:24-cv-00132-SLG is due on September 6, 2024.<sup>1</sup> EPA's administrative record would therefore be due in that case on November 5, 2024. *Id.* EPA expects that a motion to consolidate one or more of those cases will be filed, and anticipates that the parties to the consolidated cases will discuss coordinated scheduling.

7. EPA expects that its administrative record will contain approximately 40,000 documents, comprising around 500,000 pages. For comparison, the threshold in the Local Rules for electronically filing the administrative record is 5,000 pages. *See* Local Rule 16.3(b)(1). Organizing and finalizing that record and the accompanying index is a weighty task that has required coordination among numerous offices. While EPA has made great progress toward finishing that task, the Agency requires additional time to complete it. The short extension that EPA seeks here is reasonable for a record of this size.

8. Granting EPA the additional two weeks to file and serve its record will not prejudice any party. The extension also will not cause a material delay. Motions to intervene

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<sup>1</sup> The issues presented in *Iliamna Natives Ltd., et al. v. Environmental Protection Agency, et al.*, may be appropriately resolved on a motion to dismiss. Accordingly, EPA expressly reserves its rights to file any motions seeking dismissal or judgment in that case.

and to supplement remain pending in this case. In addition, the same record is not due until August 23 in the case brought by the State of Alaska, which is three weeks after the extended deadline that EPA seeks here.

9. Undersigned counsel have conferred with counsel for Plaintiffs, who have represented that they consent to the extension that EPA seeks in this motion. Undersigned counsel also have conferred with counsel for Intervenor-Movants, who have represented that they, too, consent to the extension sought in this motion.

10. Good cause exists to extend the date for filing EPA's record by two weeks, to August 2, 2024. In connection with this filing, we are submitting a proposed order granting this unopposed motion.

Respectfully submitted on July 17, 2024,

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